

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition
to Revoke Probation Against:

GAIL M. GONZALEZ, A.K.A. GAIL M.
ZAHN, A.K.A. GAIL M. JOHNSON
6762 Summerfield Court
Chino, CA 91710

Registered Nurse License No. 408697

Respondent

Case No. 2002-176

OAH No. L-2007100755

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on May 30, 2008.

IT IS SO ORDERED May 30, 2008.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

EDMUND G. BROWN JR., Attorney General
of the State of California
MARC D. GREENBAUM
Supervising Deputy Attorney General
CHRISTINA THOMAS, State Bar No. 171168
Deputy Attorney General
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2557
Facsimile: (213) 897-2804

Attorneys for Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation/Petition to
Revoke Probation Against:

GAIL M. GONZALEZ, A.K.A. GAIL M.
ZAHN, A.K.A. GAIL M. JOHNSON
6762 Summerfield Court
Chino, CA 91710
Registered Nurse License No. 408697

Respondent.

Case No. 2002-176

OAH No. L-2007100755

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
the Board of Registered Nursing. She brought this action solely in her official capacity and is
represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
by Christina Thomas, Deputy Attorney General.

2. Respondent Gail M. Gonzalez, a.k.a. Gail M. Zahn, a.k.a. Gail M. Johnson
(Respondent) is representing herself in this proceeding and has chosen not to exercise her right to
be represented by counsel.

3. On or about February 28, 1987, the Board of Registered Nursing issued
Registered Nurse License No. 408697 to Gail M. Gonzalez, a.k.a. Gail M. Zahn, a.k.a. Gail M.

1 Johnson (Respondent).

2 **JURISDICTION**

3 4. Accusation/Petition to Revoke Probation, Case No. 2002-176 was filed
4 before the Board of Registered Nursing (Board) , Department of Consumer Affairs, and is
5 currently pending against Respondent. The Accusation/Petition to Revoke Probation and all
6 other statutorily required documents were properly served on Respondent on January 26, 2007.
7 Respondent timely filed her Notice of Defense contesting the Accusation/Petition to Revoke
8 Probation. A copy of Accusation/Petition to Revoke Probation No. 2002-176 is attached as
9 exhibit A and incorporated herein by reference.

10 **ADVISEMENT AND WAIVERS**

11 5. Respondent has carefully read, and understands the charges and allegations
12 in Accusation/Petition to Revoke Probation No. 2002-176. Respondent has also carefully read
13 and understands the effects of this Stipulated Settlement and Disciplinary Order.

14 6. Respondent is fully aware of her legal rights in this matter, including the
15 right to a hearing on the charges and allegations in the Accusation/Petition to Revoke Probation;
16 the right to be represented by counsel at her own expense; the right to confront and cross-
17 examine the witnesses against her; the right to present evidence and to testify on her own behalf;
18 the right to the issuance of subpoenas to compel the attendance of witnesses and the production
19 of documents; the right to reconsideration and court review of an adverse decision; and all other
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
22 each and every right set forth above.

23 **CULPABILITY**

24 8. Respondent admits the truth of each and every charge and allegation in
25 Accusation/Petition to Revoke Probation No. 2002-176.

26 9. Respondent agrees that her Registered Nurse License is subject to
27 discipline and she agrees to be bound by the Board of Registered Nursing (Board) 's imposition
28 of discipline as set forth in the Disciplinary Order below.

RECEIVED
JAN 27 2007
11 51:51
2
SPELLED

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2
3
4
5

6

7
8
9
10
11
12
13
14
15
16

7
8
9

20
21
22

23

24
25
26
27

28

3

1 **Severability Clause.** Each condition of probation contained herein is a separate
2 and distinct condition. If any condition of this Order, or any application thereof, is declared
3 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
4 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
5 and enforceable to the fullest extent permitted by law.

6 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
7 A full and detailed account of any and all violations of law shall be reported by Respondent to
8 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
9 compliance with this condition, Respondent shall submit completed fingerprint forms and
10 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
11 as part of the licensure application process.

12 **Criminal Court Orders:** If Respondent is under criminal court orders, including
13 probation or parole, and the order is violated, this shall be deemed a violation of these probation
14 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

15 2. **Comply with the Board's Probation Program.** Respondent shall fully
16 comply with the conditions of the Probation Program established by the Board and cooperate
17 with representatives of the Board in its monitoring and investigation of the Respondent's
18 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
19 within no more than 15 days of any address change and shall at all times maintain an active,
20 current license status with the Board, including during any period of suspension.

21 Upon successful completion of probation, Respondent's license shall be fully
22 restored.

23 3. **Report in Person.** Respondent, during the period of probation, shall
24 appear in person at interviews/meetings as directed by the Board or its designated
25 representatives.

26 4. **Residency, Practice, or Licensure Outside of State.** Periods of
27 residency or practice as a registered nurse outside of California shall not apply toward a reduction
28 of this probation time period. Respondent's probation is tolled, if and when she resides outside

2016-11-15 15:51

FILED

1 of California. Respondent must provide written notice to the Board within 15 days of any change
2 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
3 returning to practice in this state.

4 Respondent shall provide a list of all states and territories where she has ever been
5 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
6 provide information regarding the status of each license and any changes in such license status
7 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
8 new nursing license during the term of probation.

9 5. **Submit Written Reports.** Respondent, during the period of probation,
10 shall submit or cause to be submitted such written reports/declarations and verification of actions
11 under penalty of perjury, as required by the Board. These reports/declarations shall contain
12 statements relative to Respondent's compliance with all the conditions of the Board's Probation
13 Program. Respondent shall immediately execute all release of information forms as may be
14 required by the Board or its representatives.

15 Respondent shall provide a copy of this Decision to the nursing regulatory agency
16 in every state and territory in which she has a registered nurse license.

17 6. **Function as a Registered Nurse.** Respondent, during the period of
18 probation, shall engage in the practice of registered nursing in California for a minimum of 24
19 hours per week for 6 consecutive months or as determined by the Board.

20 For purposes of compliance with the section, "engage in the practice of registered
21 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
22 work in any non-direct patient care position that requires licensure as a registered nurse.

23 The Board may require that advanced practice nurses engage in advanced practice
24 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
25 Board.

26 If Respondent has not complied with this condition during the probationary term,
27 and Respondent has presented sufficient documentation of his good faith efforts to comply with
28 this condition, and if no other conditions have been violated, the Board, in its discretion, may

RECEIVED
FEB 11 2006
NURSING
BOARD
CALIFORNIA

1 grant an extension of Respondent's probation period up to one year without further hearing in
2 order to comply with this condition. During the one year extension, all original conditions of
3 probation shall apply.

4 7. **Employment Approval and Reporting Requirements.** Respondent
5 shall obtain prior approval from the Board before commencing or continuing any employment,
6 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
7 performance evaluations and other employment related reports as a registered nurse upon request
8 of the Board.

9 Respondent shall provide a copy of this Decision to her employer and immediate
10 supervisors prior to commencement of any nursing or other health care related employment.

11 In addition to the above, Respondent shall notify the Board in writing within
12 seventy-two (72) hours after she obtains any nursing or other health care related employment.
13 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
14 terminated or separated, regardless of cause, from any nursing, or other health care related
15 employment with a full explanation of the circumstances surrounding the termination or
16 separation.

17 8. **Supervision.** Respondent shall obtain prior approval from the Board
18 regarding Respondent's level of supervision and/or collaboration before commencing or
19 continuing any employment as a registered nurse, or education and training that includes patient
20 care.

21 Respondent shall practice only under the direct supervision of a registered nurse
22 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
23 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
24 are approved.

25 Respondent's level of supervision and/or collaboration may include, but is not
26 limited to the following:

27 (a) **Maximum:** The individual providing supervision and/or collaboration is
28 present in the patient care area or in any other work setting at all times.

1 (b) Moderate - The individual providing supervision and/or collaboration is in
2 the patient care unit or in any other work setting at least half the hours Respondent works.

3 (c) Minimum - The individual providing supervision and/or collaboration has
4 person-to-person communication with Respondent at least twice during each shift worked.

5 (d) Home Health Care - If Respondent is approved to work in the home health
6 care setting, the individual providing supervision and/or collaboration shall have person-to-
7 person communication with Respondent as required by the Board each work day. Respondent
8 shall maintain telephone or other telecommunication contact with the individual providing
9 supervision and/or collaboration as required by the Board during each work day. The individual
10 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
11 site visits to patients' homes visited by Respondent with or without Respondent present.

12 9. **Employment Limitations.** Respondent shall not work for a nurse's
13 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
14 traveling nurse, or for an in-house nursing pool.

15 Respondent shall not work for a licensed home health agency as a visiting nurse
16 unless the registered nursing supervision and other protections for home visits have been
17 approved by the Board. Respondent shall not work in any other registered nursing occupation
18 where home visits are required.

19 Respondent shall not work in any health care setting as a supervisor of registered
20 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
21 nurses and/or unlicensed assistive personnel on a case-by-case basis.

22 Respondent shall not work as a faculty member in an approved school of nursing
23 or as an instructor in a Board approved continuing education program. Respondent may continue
24 to work in her current capacity as a teacher at Mount San Antonio College and Flex-Ed teaching
25 course as stated in Decision and Order Case. No. 2002-176 that became effective May 30, 2005.
26 Respondent must not have independent access to medications or narcotics. Respondent may not
27 commence any other work as a faculty member in an approved school of nursing or as an
28 instructor in a Board approved continuing education program.

1 A copy of Decision and Order No. 2002-176, effective May 30, 2005 is attached as exhibit B and
2 incorporated herein by reference.

3 Respondent shall work only on a regularly assigned, identified and predetermined
4 work site(s) and shall not work in a float capacity. If Respondent is working or intends to work
5 in excess of 40 hours per week, the Board may request documentation to determine whether there
6 should be restrictions on the hours of work.

7 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
8 enroll and successfully complete a course(s) relevant to nursing practice no later than six months
9 prior to the end of her probationary term.

10 Respondent shall obtain prior approval from the Board before enrolling in the
11 course(s). Respondent shall submit to the Board the original transcripts or certificates of
12 completion for the required course(s). The Board shall return the original documents to
13 Respondent after photocopying them for its records.

14 11. **Violation of Probation.** If Respondent violates the conditions of her
15 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
16 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
17 license.

18 If during the period of probation, an accusation or petition to revoke probation has
19 been filed against Respondent's license or the Attorney General's Office has been requested to
20 prepare an accusation or petition to revoke probation against Respondent's license, the
21 probationary period shall automatically be extended and shall not expire until the accusation or
22 petition has been acted upon by the Board.

23 12. **License Surrender.** During Respondent's term of probation, if she ceases
24 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
25 probation, Respondent may surrender her license to the Board. The Board reserves the right to
26 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
27 take any other action deemed appropriate and reasonable under the circumstances, without
28 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent

1 will no longer be subject to the conditions of probation.

2 Surrender of Respondent's license shall be considered a disciplinary action and
3 shall become a part of Respondent's license history with the Board. A registered nurse whose
4 license has been surrendered may petition the Board for reinstatement no sooner than the
5 following minimum periods from the effective date of the disciplinary decision:

6 (1) Two years for reinstatement of a license that was surrendered for any
7 reason other than a mental or physical illness; or

8 (2) One year for a license surrendered for a mental or physical illness.

9 13. **Physical Examination.** Within 45 days of the effective date of this
10 Decision, Respondent, at Respondent's expense, shall have a licensed physician, nurse
11 practitioner, or physician assistant, who is approved by the Board before the assessment is
12 performed, submit an assessment of the Respondent's physical condition and capability to
13 perform the duties of a registered nurse. Such an assessment shall be submitted in a format
14 acceptable to the Board. If medically determined, a recommended treatment program will be
15 instituted and followed by the Respondent with the physician, nurse practitioner, or physician
16 assistant providing written reports to the Board on forms provided by the Board.

17 If Respondent is determined to be unable to practice safely as a registered nurse,
18 the licensed physician, nurse practitioner, or physician assistant making this determination shall
19 immediately notify the Board and Respondent by telephone, and the Board shall request that the
20 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
21 shall immediately cease practice and shall not resume practice until notified by the Board.
22 During this period of suspension, Respondent shall not engage in any practice for which a license
23 issued by the Board is required until the Board has notified Respondent that a medical
24 determination permits Respondent to resume practice. This period of suspension will not apply
25 to the reduction of this probationary time period.

26 If Respondent fails to have the above assessment submitted to the Board within
27 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
28 practice until notified by the Board. This period of suspension will not apply to the reduction of

1 this probationary time period. The Board may waive or postpone this suspension only if
2 significant, documented evidence of mitigation is provided. Such evidence must establish good
3 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
4 provided. Only one such waiver or extension may be permitted.

5 14. **Participate in Treatment/Rehabilitation Program for Chemical**
6 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
7 period or shall have successfully completed prior to commencement of probation a Board-
8 approved treatment/rehabilitation program of at least six months duration. As required, reports
9 shall be submitted by the program on forms provided by the Board. If Respondent has not
10 completed a Board-approved treatment/rehabilitation program prior to commencement of
11 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
12 a program. If a program is not successfully completed within the first nine months of probation,
13 the Board shall consider Respondent in violation of probation.

14 Based on Board recommendation, each week Respondent shall be required to
15 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
16 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
17 by the Board. If a nurse support group is not available, an additional 12-step meeting or
18 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
19 such attendance to the Board during the entire period of probation. Respondent shall continue
20 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
21 mental health examiner and/or other ongoing recovery groups.

22 15. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
23 shall completely abstain from the possession, injection or consumption by any route of all
24 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
25 the same are ordered by a health care professional legally authorized to do so as part of
26 documented medical treatment. Respondent shall have sent to the Board, in writing and within
27 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
28 dosage, the date the medication was prescribed; the Respondent's prognosis, the date the

1 medication will no longer be required, and the effect on the recovery plan, if appropriate.

2 Respondent shall identify for the Board a single physician, nurse practitioner or
3 physician assistant who shall be aware of Respondent's history of substance abuse and will
4 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
5 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
6 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
7 condition. If any substances considered addictive have been prescribed, the report shall identify a
8 program for the time limited use of any such substances.

9 The Board may require the single coordinating physician, nurse practitioner, or
10 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
11 addictive medicine.

12 **16. Submit to Tests and Samples.** Respondent, at her expense, shall
13 participate in a random, biological fluid testing or a drug screening program which the Board
14 approves. The length of time and frequency will be subject to approval by the Board.
15 Respondent is responsible for keeping the Board informed of Respondent's current telephone
16 number at all times. Respondent shall also ensure that messages may be left at the telephone
17 number when Respondent is not available and ensure that reports are submitted directly by the
18 testing agency to the Board, as directed. Any confirmed positive finding shall be reported
19 immediately to the Board by the program and Respondent shall be considered in violation of
20 probation.

21 In addition, Respondent, at any time during the period of probation, shall fully
22 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
23 tests and samples as the Board or its representatives may require for the detection of alcohol,
24 narcotics, hypnotics, dangerous drugs, or other controlled substances.

25 If Respondent has a positive drug screen for any substance not legally authorized
26 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
27 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
28 from practice pending the final decision on the petition to revoke probation or the accusation.

1 This period of suspension will not apply to the reduction of this probationary time period.

2 If Respondent fails to participate in a random, biological fluid testing or drug
3 screening program within the specified time frame, Respondent shall immediately cease practice
4 and shall not resume practice until notified by the Board. After taking into account documented
5 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
6 Board may suspend Respondent from practice pending the final decision on the petition to
7 revoke probation or the accusation. This period of suspension will not apply to the reduction of
8 this probationary time period.

9 17. **Mental Health Examination.** Respondent shall, within 45 days of the
10 effective date of this Decision, have a mental health examination including psychological testing
11 as appropriate to determine Respondent's capability to perform the duties of a registered nurse.
12 The examination will be performed by a psychiatrist, psychologist or other licensed mental health
13 practitioner approved by the Board. The examining mental health practitioner will submit a
14 written report of that assessment and recommendations to the Board. All costs are the
15 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
16 result of the mental health examination will be instituted and followed by Respondent.

17 If Respondent is determined to be unable to practice safely as a registered nurse,
18 the licensed mental health care practitioner making this determination shall immediately notify
19 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
20 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
21 practice and may not resume practice until notified by the Board. During this period of
22 suspension, Respondent shall not engage in any practice for which a license issued by the Board
23 is required, until the Board has notified Respondent that a mental health determination permits
24 Respondent to resume practice. This period of suspension will not apply to the reduction of this
25 probationary time period.

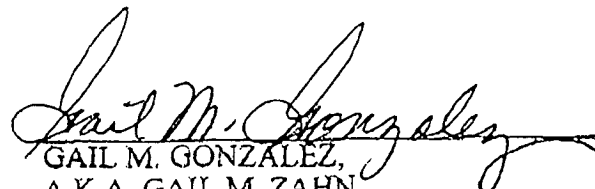
26 If Respondent fails to have the above assessment submitted to the Board within
27 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
28 practice until notified by the Board. This period of suspension will not apply to the reduction of

1 this probationary time period. The Board may waive or postpone this suspension only if
2 significant, documented evidence of mitigation is provided. Such evidence must establish good
3 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
4 provided. Only one such waiver or extension may be permitted.

5 ACCEPTANCE

6 I have carefully read the above Stipulated Settlement and Disciplinary Order. I understand
7 the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated
8 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound
9 by the Decision and Order of the Board of Registered Nursing.

10
11 DATED: 1-17-08

12 
13 GAIL M. GONZALEZ,
14 A.K.A. GAIL M. ZAHN,
15 A.K.A. GAIL M. JOHNSON
16 Respondent

17 ENDORSEMENT

18 DATED: 1/18/08

19 EDMUND G. BROWN JR., Attorney General
20 of the State of California

21 MARC D. GREENBAUM
22 Supervising Deputy Attorney General

23 
24 CHRISTINA THOMAS
25 Deputy Attorney General

26 Attorneys for Complainant

Exhibit A
Accusation/Petition to Revoke Probation No. 2002-176

1 BILL LOCKYER, Attorney General
of the State of California
2 MARC GREENBAUM,
Supervising Deputy Attorney General
3 CHRISTINA THOMAS, State Bar No. 171168
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2557
6 Facsimile: (213) 897-2804
7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation/Petition to
12 Revoke Probation Against:

13 GAIL M. GONZALEZ AKA GAIL M. ZAHN
14 AKA GAIL M. JOHNSON
6762 Summerfield Court
Chino, CA 91710

15 Registered Nurse License No. 408697

16 Respondent.

Case No. 2002 - 176

OAH No.

**ACCUSATION/PETITION TO
REVOKE PROBATION**

17
18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Petition to
21 Revoke Probation solely in her official capacity as the Executive Officer of the Board of
22 Registered Nursing, Department of Consumer Affairs.

23 2. On or about February 28, 1987, the Board of Registered Nursing issued
24 Registered Nurse License No. 408697 to Gail M. Gonzalez Aka Gail M. Zahn Aka Gail M.
25 Johnson, (Respondent). On or about May 30, 2005, the Registered Nurse License was revoked;
26 however revocation was stayed and Respondent was placed on probation for three years. The
27 Registered Nurse License will expire on March 31, 2007, unless renewed.

28 3. In a disciplinary action entitled "In the Matter of The Accusation Against

1 Gail M. Gonzalez," Case No. 2002-176, the Board of Registered Nursing issued a decision,
2 effective May 30, 2005, in which Respondent's Registered Nurse License was revoked.
3 However, the revocation was stayed and Respondent's license was placed on probation for a
4 period of three (3) years with certain terms and conditions. A copy of that decision is attached as
5 Exhibit A and incorporated by reference.

6 JURISDICTION

7 4. This Petition to Revoke Probation is brought before the Board of
8 Registered Nursing (Board), Department of Consumer Affairs, under the authority of the
9 following laws. All section references are to the Business and Professions Code unless otherwise
10 indicated.

11 5. Section 2750 provides, in pertinent part, that the Board may discipline any
12 licensee, including a licensee holding a temporary or inactive license, for any reason provided in
13 Article 3 (commencing with section 2750) of the Nursing Practice Act.

14 PROBATION TERMS AND CONDITIONS

15 6. Condition 2 of probation provides as follows:

16 **COMPLY WITH THE BOARD'S PROBATION PROGRAM.** Respondent
17 shall fully comply with the conditions of the Probation Program established by the Board and
18 cooperate with representatives of the Board in its monitoring and investigation of the
19 Respondent's compliance with the Board's Probation Program. Respondent shall inform the
20 Board in writing within no more than 15 days of any address change and shall at all times
21 maintain an active, current license status with the Board, including during any period of
22 suspension.

23 Upon successful completion of probation, Respondent's license shall be fully
24 restored."

25 7. Condition 5 of probation provides as follows:

26 **SUBMIT WRITTEN REPORTS.** Respondent, during the period of probation,
27 shall submit or cause to be submitted such written reports/declarations and verification of actions
28 under penalty of perjury, as required by the Board. These reports/declarations shall contain

1 statements relative to respondent's compliance with all the conditions of the Board's Probation
2 Program. Respondent shall immediately execute all release of information forms as may be
3 required by the Board or its representatives.

4 Respondent shall provide a copy of this decision to the nursing regulatory agency
5 in every state and territory in which he or she has a registered nurse license."

6 8. Condition 16A of probation provides as follows:

7 **PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR**
8 **CHEMICAL DEPENDENCE.** Respondent, at his/her expense, shall successfully complete
9 during the probationary period or shall have successfully completed prior to commencement of
10 probation a Board-approved treatment/rehabilitation program of at least six months duration. As
11 required, reports shall be submitted by the program on forms provided by the Board. If
12 Respondent has not completed a Board-approved treatment/rehabilitation program prior to
13 commencement of probation, respondent, within 45 days from the effective date of the decision,
14 shall be enrolled in a program. If a program is not successfully completed within the first nine
15 months of probation, the Board shall consider Respondent in violation of probation.

16 Based on Board recommendation, each week Respondent shall be required to
17 attend at least one, but no more than five, 12-step recovery meetings or equivalent (e.g.,
18 Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and
19 directed by the Board. If a nurse support group is not available, an additional 12-step meeting or
20 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
21 such attendance to the Board during the entire period of probation. Respondent shall continue
22 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
23 mental health examiner and/or other ongoing recovery groups.

24 9. Condition 16B of probation provides as follows:

25 **ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING)**
26 **DRUGS.** Respondent shall completely abstain from the possession, injection or consumption by
27 any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are
28 ordered by a health care professional legally authorized to do so as part of documented medical

1 treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by
2 the prescribing health professional, a report identifying the medication, dosage, the date the
3 medication was prescribed, Respondent's prognosis, the date the medication will no longer be
4 required, and the effect on the recovery plan, if appropriate.

5 Respondent shall identify for the Board a single physician, nurse practitioner or
6 physician assistant who shall be aware of respondent's history of substance abuse and will
7 coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled
8 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
9 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
10 condition. If any substances considered addictive have been prescribed, the report shall identify a
11 program for the time limited use of any such substances.

12 The Board may require the single coordinating physician, nurse practitioner, or
13 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
14 addictive medicine."

15 **GROUND FOR REVOKING PROBATION**

16 10. Grounds exist for revoking probation and reimposing the Order of
17 Revocation of Respondent's licenses in that Respondent failed to comply with the following
18 terms of probation:

19 a. Probation Term No. 2. Respondent failed to comply with the Board's
20 probation program for the reasons set forth below.

21 b. Probation Term No. 5. Respondent failed to submit written reports as
22 required in that she failed to submit the Chemical Dependency Program Treatment form by May
23 30, 2006.

24 c. Probation Term No. 16A. Respondent failed to enroll in a
25 treatment/rehabilitation program for chemical dependence in a timely manner.

26 ///

27 ///

28 ///

1 d. Probation Term No. 16B. Respondent failed to abstain from mood-
2 altering substances, including alcohol, as required in that she tested positive for alcohol on June
3 27, 2006, August 1, 2006, and August 9, 2006, and in that she tested positive for Darvocet on
4 May 25, 2006 and June 14, 2006.

5 PRAYER


6 WHEREFORE, Complainant requests that a hearing be held on the matters herein
7 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

8 1. Revoking the probation that was granted by the Board of Registered
9 Nursing in Case No. 2002-176 and imposing the disciplinary order that was stayed thereby
10 revoking Registered Nurse License No. 408697 issued to Gail Gonzalez;

11 2. Revoking or suspending Registered Nurse License No. 408697, issued to
12 Gail Gonzalez;

13 3. Taking such other and further action as deemed necessary and proper.

14 DATED: 4/17/07

15
16 
RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Gail Gonzalez
6762 Summerfield Court
Chino, CA 91710

Registered Nurse License No. 408697

Respondent

Case No. 2002-176

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on May 30, 2005.

IT IS SO ORDERED April 28, 2005.

Sandra R. Erickson

President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 BILL LOCKYER, Attorney General
of the State of California
2 KATHLEEN B.Y. LAM, State Bar No. 95379
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101
5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2091
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 GAIL M. GONZALEZ
14 a.k.a. GAIL M. ZAHN,
a.k.a. GAIL M. JOHNSON
1240 N. Andrea Lane
Anaheim, California 92807

15 Registered Nurse License No. 408697

16 Respondent.

Case No. 2002-176

OAH No. L-2002090522

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18
19 In the interest of a prompt and speedy settlement of this matter, consistent with the
20 public interest and the responsibility of the Board of Registered Nursing, the parties hereby agree
21 to the following Stipulated Settlement and Disciplinary Order which will be submitted to the
22 Board for approval and adoption as the final disposition of the Accusation.

23 **PARTIES**

24 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") is the Executive Officer of
25 the Board of Registered Nursing ("Board"). She brought this action solely in her official
26 capacity, and is represented in this matter by Bill Lockyer, Attorney General of the State of
27 California, by Kathleen B.Y. Lam, Deputy Attorney General.

28 ///

2. Respondent GAIL M. GONZALEZ, a.k.a GAIL M. ZAHN, a.k.a GAIL M. JOHNSON ("Respondent") is represented in this proceeding by attorney George L. Baugh, whose address is 2201 E. Chapman Avenue, Fullerton, California 92831.

3. On or about February 28, 1987, the Board of Registered Nursing issued Registered Nurse License No. 408697 to GAIL M. GONZALEZ, a.k.a. GAIL M. ZAHN, a.k.a. GAIL M. JOHNSON ("Respondent"). The license will expire on March 31, 2005, unless renewed.

JURISDICTION

4. Accusation No. 2002-176 was filed before the Board of Registered Nursing, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 5, 2002. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2002-176 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2002-176. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

///

[illegible]

2
3
4

5
6
7
8

901

2

3
4
5

5
7
8

1

1

1 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
2 A full and detailed account of any and all violations of law shall be reported by Respondent to
3 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
4 compliance with this condition, Respondent shall submit completed fingerprint forms and
5 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
6 as part of the licensure application process.

7 **Criminal Court Orders:** If Respondent is under criminal court orders, including
8 probation or parole, and the order is violated, this shall be deemed a violation of these probation
9 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

10 2. **Comply with the Board's Probation Program.** Respondent shall fully
11 comply with the conditions of the Probation Program established by the Board and cooperate
12 with representatives of the Board in its monitoring and investigation of the Respondent's
13 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
14 within no more than 15 days of any address change and shall at all times maintain an active,
15 current license status with the Board, including during any period of suspension.

16 Upon successful completion of probation, Respondent's license shall be fully
17 restored.

18 3. **Report in Person.** Respondent, during the period of probation, shall
19 appear in person at interviews/meetings as directed by the Board or its designated
20 representatives.

21 4. **Residency, Practice, or Licensure Outside of State.** Periods of
22 residency or practice as a registered nurse outside of California shall not apply toward a reduction
23 of this probation time period. Respondent's probation is tolled, if and when she resides outside
24 of California. Respondent must provide written notice to the Board within 15 days of any change
25 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
26 returning to practice in this state.

27 Respondent shall provide a list of all states and territories where she has ever been
28 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further

1 provide information regarding the status of each license and any changes in such license status
2 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
3 new nursing license during the term of probation.

4 **5. Submit Written Reports.** Respondent, during the period of probation,
5 shall submit or cause to be submitted such written reports/declarations and verification of actions
6 under penalty of perjury, as required by the Board. These reports/declarations shall contain
7 statements relative to Respondent's compliance with all the conditions of the Board's Probation
8 Program. Respondent shall immediately execute all release of information forms as may be
9 required by the Board or its representatives.

10 Respondent shall provide a copy of this Decision to the nursing regulatory agency
11 in every state and territory in which she has a registered nurse license.

12 **6. Function as a Registered Nurse.** Respondent, during the period of
13 probation, shall engage in the practice of registered nursing in California for a minimum of 24
14 hours per week for 6 consecutive months or as determined by the Board.

15 For purposes of compliance with the section, "engage in the practice of registered
16 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
17 work in any non-direct patient care position that requires licensure as a registered nurse.

18 The Board may require that advanced practice nurses engage in advanced practice
19 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
20 Board.

21 If Respondent has not complied with this condition during the probationary term,
22 and Respondent has presented sufficient documentation of her good faith efforts to comply with
23 this condition, and if no other conditions have been violated, the Board, in its discretion, may
24 grant an extension of Respondent's probation period up to one year without further hearing in
25 order to comply with this condition. During the one year extension, all original conditions of
26 probation shall apply.

27 **7. Employment Approval and Reporting Requirements.** Respondent
28 shall obtain prior approval from the Board before commencing or continuing any employment,

1 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
2 performance evaluations and other employment related reports as a registered nurse upon request
3 of the Board.

4 Respondent shall provide a copy of this Decision to her employer and immediate
5 supervisors prior to commencement of any nursing or other health care related employment.

6 In addition to the above, Respondent shall notify the Board in writing within
7 seventy-two (72) hours after she obtains any nursing or other health care related employment.
8 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
9 terminated or separated, regardless of cause, from any nursing, or other health care related
10 employment with a full explanation of the circumstances surrounding the termination or
11 separation.

12 8. **Supervision.** Respondent shall obtain prior approval from the Board
13 regarding Respondent's level of supervision and/or collaboration before commencing or
14 continuing any employment as a registered nurse, or education and training that includes patient
15 care.

16 Respondent shall practice only under the direct supervision of a registered nurse
17 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
18 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
19 are approved.

20 Respondent's level of supervision and/or collaboration may include, but is not
21 limited to the following:

22 (a) Maximum - The individual providing supervision and/or collaboration is
23 present in the patient care area or in any other work setting at all times.

24 (b) Moderate - The individual providing supervision and/or collaboration is in
25 the patient care unit or in any other work setting at least half the hours Respondent works.

26 (c) Minimum - The individual providing supervision and/or collaboration has
27 person-to-person communication with Respondent at least twice during each shift worked.

28 (d) Home Health Care - If Respondent is approved to work in the home health

1 care setting, the individual providing supervision and/or collaboration shall have person-to-
2 person communication with Respondent as required by the Board each work day. Respondent
3 shall maintain telephone or other telecommunication contact with the individual providing
4 supervision and/or collaboration as required by the Board during each work day. The individual
5 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
6 site visits to patients' homes visited by Respondent with or without Respondent present.

7 9. **Employment Limitations.** Respondent shall not work for a nurse's
8 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
9 traveling nurse, or for an in-house nursing pool.

10 Respondent shall not work for a licensed home health agency as a visiting nurse
11 unless the registered nursing supervision and other protections for home visits have been
12 approved by the Board. Respondent shall not work in any other registered nursing occupation
13 where home visits are required.

14 Respondent shall not work in any health care setting as a supervisor of registered
15 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
16 nurses and/or unlicensed assistive personnel on a case-by-case basis.

17 Respondent shall not work as a faculty member in an approved school of nursing
18 or as an instructor in a Board approved continuing education program. Respondent may continue
19 to work in her current capacity as a teacher at Mount San Antonio College and Flex-Ed teaching
20 course as described in the June 25, 2004 letter and documents submitted by Respondent's
21 attorney, George L. Baugh, Esq. Respondent must not have independent access to medications
22 or narcotics. Respondent may not commence any other work as a faculty member in an approved
23 school of nursing or as an instructor in a Board approved continuing education program.

24 Respondent shall work only on a regularly assigned, identified and predetermined
25 worksite(s) and shall not work in a float capacity.

26 If Respondent is working or intends to work in excess of 40 hours per week, the
27 Board may request documentation to determine whether there should be restrictions on the hours
28 of work.

1 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
2 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
3 than six months prior to the end of her probationary term.

4 Respondent shall obtain prior approval from the Board before enrolling in the
5 course(s). Respondent shall submit to the Board the original transcripts or certificates of
6 completion for the above required course(s). The Board shall return the original documents to
7 Respondent after photocopying them for its records.

8 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
9 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
10 amount of \$6281. Respondent shall be permitted to pay these costs in a payment plan approved
11 by the Board, with payments to be completed no later than three months prior to the end of the
12 probation term.

13 If Respondent has not complied with this condition during the probationary term,
14 and Respondent has presented sufficient documentation of her good faith efforts to comply with
15 this condition, and if no other conditions have been violated, the Board, in its discretion, may
16 grant an extension of Respondent's probation period up to one year without further hearing in
17 order to comply with this condition. During the one year extension, all original conditions of
18 probation will apply.

19 12. **Violation of Probation.** If Respondent violates the conditions of her
20 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
21 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
22 license.

23 If during the period of probation, an accusation or petition to revoke probation has
24 been filed against Respondent's license or the Attorney General's Office has been requested to
25 prepare an accusation or petition to revoke probation against Respondent's license, the
26 probationary period shall automatically be extended and shall not expire until the accusation or
27 petition has been acted upon by the Board.

28 ///

1 13. **License Surrender.** During Respondent's term of probation, if she ceases
2 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
3 probation, Respondent may surrender her license to the Board. The Board reserves the right to
4 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
5 take any other action deemed appropriate and reasonable under the circumstances, without
6 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
7 will no longer be subject to the conditions of probation.

8 Surrender of Respondent's license shall be considered a disciplinary action and
9 shall become a part of Respondent's license history with the Board. A registered nurse whose
10 license has been surrendered may petition the Board for reinstatement no sooner than the
11 following minimum periods from the effective date of the disciplinary decision:

12 (1) Two years for reinstatement of a license that was surrendered for any
13 reason other than a mental or physical illness; or

14 (2) One year for a license surrendered for a mental or physical illness.

15 14. **Physical Examination.** Within 45 days of the effective date of this
16 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
17 physician assistant, who is approved by the Board before the assessment is performed, submit an
18 assessment of the Respondent's physical condition and capability to perform the duties of a
19 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
20 medically determined, a recommended treatment program will be instituted and followed by the
21 Respondent with the physician, nurse practitioner, or physician assistant providing written
22 reports to the Board on forms provided by the Board.

23 If Respondent is determined to be unable to practice safely as a registered nurse,
24 the licensed physician, nurse practitioner, or physician assistant making this determination shall
25 immediately notify the Board and Respondent by telephone, and the Board shall request that the
26 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
27 shall immediately cease practice and shall not resume practice until notified by the Board.
28 During this period of suspension, Respondent shall not engage in any practice for which a license

1 issued by the Board is required until the Board has notified Respondent that a medical
2 determination permits Respondent to resume practice. This period of suspension will not apply
3 to the reduction of this probationary time period.

4 If Respondent fails to have the above assessment submitted to the Board within
5 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
6 practice until notified by the Board. This period of suspension will not apply to the reduction of
7 this probationary time period. The Board may waive or postpone this suspension only if
8 significant, documented evidence of mitigation is provided. Such evidence must establish good
9 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
10 provided. Only one such waiver or extension may be permitted.

11 **15. Mental Health Examination.** The Respondent shall, within 45 days of
12 the effective date of this decision, have a mental health examination including psychological
13 testing as appropriate to determine her capability to perform the duties of a registered nurse,
14 including a determination as set forth below in Condition No. 16, "Rule-Out Substance Abuse
15 Assessment." The examination will be performed by a psychiatrist, psychologist or other
16 licensed mental health practitioner approved by the Board. The examining mental health
17 practitioner will submit a written report of that assessment and recommendations to the Board.
18 All costs are the responsibility of the Respondent. Recommendations for treatment, therapy or
19 counseling made as a result of the mental health examination will be instituted and followed by
20 the Respondent.

21 If respondent is determined to be unable to practice safely as a registered nurse,
22 the licensed mental health care practitioner making this determination shall immediately notify
23 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
24 office prepare an Accusation or Petition to Revoke Probation. Respondent shall immediately
25 cease practice and may not resume practice until notified by the Board. During this period of
26 suspension, Respondent shall not engage in any practice for which a license issued by the Board
27 is required, until the Board has notified Respondent that a mental health determination permits
28 Respondent to resume practice.

1 **16. Rule-Out Substance Abuse Assessment** - If the examiner conducting the
2 physical and/or mental health examination determines that the Respondent is dependent upon
3 drugs or alcohol, or has had problems with drugs or alcohol (i.e., drug dependence in remission
4 or alcohol dependence in remission), that might reasonably affect the safe practice of nursing,
5 then the Respondent must further comply with the following additional terms and conditions of
6 probation.

7 **A. Participate In Treatment/Rehabilitation Program For Chemical**
8 **Dependence** - Respondent, at her expense, shall successfully complete during the probationary
9 period or shall have successfully completed prior to commencement of probation a Board-
10 approved treatment/rehabilitation program of at least six months duration. As required, reports
11 shall be submitted by the program on forms provided by the Board. If Respondent has not
12 completed a Board-approved treatment/rehabilitation program prior to commencement of
13 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
14 a program. If a program is not successfully completed within the first nine months of probation,
15 the Board shall consider Respondent in violation of probation.

16 Based on Board recommendation, each week Respondent shall be required to
17 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
18 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
19 by the Board. If a nurse support group is not available, an additional 12-step meeting or
20 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
21 such attendance to the Board during the entire period of probation. Respondent shall continue
22 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
23 mental health examiner and/or other ongoing recovery groups.

24 **B. Abstain from Use of Psychotropic (Mood-Altering) Drugs** -
25 Respondent shall completely abstain from the possession, injection or consumption by any route
26 of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered
27 by a health care professional legally authorized to do so as part of documented medical treatment.
28 Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the

1 prescribing health professional, a report identifying the medication, dosage, the date the
2 medication was prescribed, the Respondent's prognosis, the date the medication will no longer
3 be required, and the effect on the recovery plan, if appropriate.

4 Respondent shall identify for the Board a single physician, nurse practitioner or
5 physician assistant who shall be aware of Respondent's history of substance abuse and will
6 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
7 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
8 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
9 condition. If any substances considered addictive have been prescribed, the report shall identify a
10 program for the time limited use of any such substances.

11 The Board may require the single coordinating physician, nurse practitioner, or
12 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
13 addictive medicine.

14 C. **Submit to Tests and Samples** - Respondent, at her expense, shall
15 participate in a random, biological fluid testing or a drug screening program which the Board
16 approves. The length of time and frequency will be subject to approval by the Board.
17 Respondent is responsible for keeping the Board informed of Respondent's current telephone
18 number at all times. Respondent shall also ensure that messages may be left at the telephone
19 number when she is not available and ensure that reports are submitted directly by the testing
20 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
21 to the Board by the program and Respondent shall be considered in violation of probation.

22 In addition, Respondent, at any time during the period of probation, shall fully
23 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
24 tests and samples as the Board or its representatives may require for the detection of alcohol,
25 narcotics, hypnotics, dangerous drugs, or other controlled substances.

26 If Respondent has a positive drug screen for any substance not legally authorized
27 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
28 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent

1 from practice pending the final decision on the petition to revoke probation or the accusation.
2 This period of suspension will not apply to the reduction of this probationary time period.

3 If Respondent fails to participate in a random, biological fluid testing or drug
4 screening program within the specified time frame, Respondent shall immediately cease practice
5 and shall not resume practice until notified by the Board. After taking into account documented
6 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
7 Board may suspend Respondent from practice pending the final decision on the petition to
8 revoke probation or the accusation. This period of suspension will not apply to the reduction of
9 this probationary time period.

10 D. **Therapy or Counseling Program** - Respondent, at her expense, shall
11 participate in an on-going counseling program until such time as the Board releases her from this
12 requirement and only upon the recommendation of the counselor. Written progress reports from
13 the counselor will be required at various intervals.

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

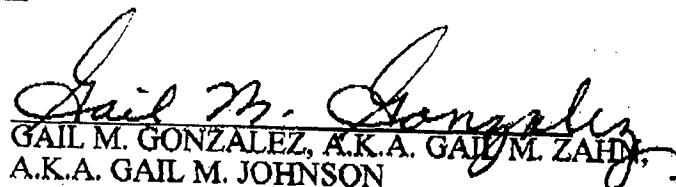
27 ///

28 ///

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, George L. Baugh, Esq. I understand the stipulation and the effect it will have on my Registered Nurse license. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

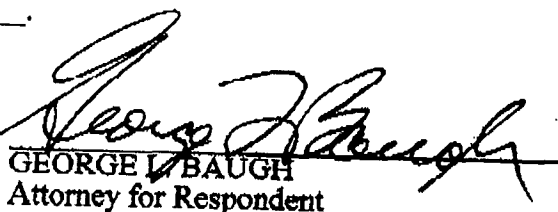
DATED: 9-17-04


GAIL M. GONZALEZ, A.K.A. GAIL M. ZAHN,
A.K.A. GAIL M. JOHNSON

Respondent

I have read and fully discussed with Respondent GAIL M. GONZALEZ, a.k.a. GAIL M. ZAHN, a.k.a. GAIL M. JOHNSON, the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 9-18-04


GEORGE L. BAUGH
Attorney for Respondent

///
///
///
///
///
///
///
///

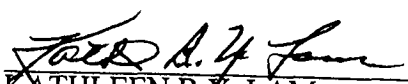
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing.

DATED: 9/21/04

BILL LOCKYER, Attorney General
of the State of California


KATHLEEN B. LAM
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2001AD0664
80032592.wpd
Rev. 9/14/04

Exhibit A
Accusation No. 2002-176

1 BILL LOCKYER, Attorney General
of the State of California
2 SHERRY L. LEDAKIS, State Bar No. 131767
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101

5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2078
Facsimile: (619) 645-2061
7

8 Attorneys for Complainant

9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2002-176

13 GAIL M. GONZALEZ, aka
14 GAIL M. ZAHN, aka
GAIL M. JOHNSON
1240 N. Andrea Lane
15 Anaheim, California 92807
Registered Nurse License No. 408697
16

ACCUSATION

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
22 (Board), Department of Consumer Affairs.

23 2. On or about February 28, 1987, the Board issued Registered Nurse
24 License Number 408697 to Gail M. Gonzalez, also known as Gail M. Zahn and Gail M. Johnson
25 (Respondent). The license was in full force and effect at all times relevant to the charges brought
26 herein and will expire on March 31, 2003, unless renewed.

27 ///

28 ///

STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

5. Section 2761(a) of the Code states that the board may take disciplinary action against a certified or licensed nurse for unprofessional conduct.

6. Section 2762 of the Code states, in pertinent part, that in addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

....

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

7. Health and Safety Code section 11173(a) states, in pertinent part, that no person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances by fraud, deceit, misrepresentation or subterfuge.

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case.

3 9. **Drugs**

4 "Percocet," a combination drug containing 5 mg. of oxycodone hydrochloride and
5 acetaminophen, is a Schedule II controlled substance as designated by Health and Safety Code
6 section 11055(b)(1)(N).

7 "Vicodin ES," a combination drug containing 7.5 mg. of hydrocodone bitartrate
8 and 750 mg. of acetaminophen, is a Schedule III controlled substance as designated by Health
9 and Safety Code section 11056(e)(4).

10 **FIRST CAUSE FOR DISCIPLINE**

11 (Diversion of Controlled Substances)

12 10. Respondent is subject to disciplinary action under Code section 2761(a) on
13 the grounds of unprofessional conduct, as defined by Code section 2762(a), in that on and
14 between September 6, 1998, and May 10, 1999, while employed and/or on duty as a registered
15 nurse at Vencor Hospital, Westminster, California, Respondent, using her exclusive and
16 confidential access code, obtained varying quantities of Percocet and Vicodin ES, controlled
17 substances, by fraud, deceit, misrepresentation or subterfuge in violation of Health and Safety
18 Code section 11173(a), as follows:

19 **Patient ID No. 200**

20 a. On May 10, 1999, at 16:56 hours, Respondent withdrew 5 tablets of
21 Percocet, a controlled substance, from the hospital's computerized medication system known as
22 SURE-MED (SURE-MED system) for Patient No. 200, when, in fact, the patient had been
23 discharged from the hospital on March 10, 1999. Further, there was no physician's order for that
24 medication.

25 **Patient ID No. 201**

26 b. On May 10, 1999, at 16:56 hours, Respondent withdrew 4 tablets of
27 Percocet, a controlled substance, from the hospital's SURE-MED system for Patient No. 201,
28 when, in fact, there was no physician's order for that medication.

1 **Patient ID No. 202**

2 c. On April 18, 1999, at 14:48 hours, Respondent withdrew 4 tablets of
3 Percocet, a controlled substance, from the hospital's SURE-MED system for Patient No. 202,
4 when, in fact, the patient had died on April 8, 1999. Further, there was no physician's order for
5 that medication.

6 **Patient ID No. 203**

7 d. On April 18, 1999, at 14:11 hours, Respondent withdrew 2 tablets of
8 Percocet, a controlled substance, from the hospital's SURE-MED system for Patient No. 203,
9 when, in fact, there was no physician's order for that medication.

10 **Patient ID No. 204**

11 e. On September 6, 1998, at 12:33 hours, Respondent withdrew 2 tablets of
12 Percocet, a controlled substance, from the hospital's SURE-MED system for Patient No. 204,
13 when, in fact, the patient had died on August 30, 1998. Further, there was no physician's order
14 for that medication.

15 **Patient ID No. 205**

16 f. On September 6, 1998, at 10:32 hours, Respondent withdrew 2 tablets of
17 Percocet, a controlled substance, from the hospital's SURE-MED system for Patient No. 205,
18 when, in fact, the patient had died on September 3, 1998. Further, there was no physician's order
19 for that medication.

20 g. On September 6, 1998, at 18:50 hours, Respondent withdrew 2 tablets of
21 Percocet, a controlled substance, from the hospital's SURE-MED system for Patient No. 205,
22 when, in fact, the patient had died on September 3, 1998. Further, there was no physician's order
23 for that medication.

24 **Patient ID No. 206**

25 h. On April 18, 1999, at 14:13 hours, Respondent withdrew 4 tablets of
26 Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 206
27 when, in fact, the physician's order for the medication had been stopped or terminated as of
28 April 6, 1999.

Patient ID No. 207

i. On April 18, 1999, at 14:48 hours, Respondent withdrew 4 tablets of Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 207, when, in fact, the patient had been discharged from the hospital on March 23, 1999. Further, there was no physician's order for that medication.

Patient ID No. 208

j. On April 18, 1999, at 14:11 hours, Respondent withdrew 2 tablets of Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 208, when, in fact, had died on April 8, 1999. Further, there was no physician's order for that medication.

Patient ID No. 209

k. On April 18, 1999, at 14:12 hours, Respondent withdrew 4 tablets of Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 209, when, in fact, there was no physician's order for that medication.

Patient ID No. 210

l. On April 18, 1999, at 14:12 hours, Respondent withdrew 4 tablets of Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 210, when, in fact, there was no physician's order for that medication.

Patient ID No. 212

m. On April 18, 1999, at 14:13 hours, Respondent withdrew 4 tablets of Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 212, when, in fact, the physician's order for the medication had been stopped or terminated as of April 9, 1999.

Patient ID No. 213

n. On April 18, 1999, at 16:00 hours, Respondent withdrew a total of 8 tablets of Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 213, when, in fact, the patient had died on April 5, 1999. Further, there was no physician's order for that medication.

Patient ID No. 214

o. On April 18, 1999, at 16:47 hours, Respondent withdrew 4 tablets of Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 214, when, in fact, there was no physician's order for that medication.

Patient ID No. 215

p. On April 18, 1999, at 16:48 hours, Respondent withdrew 4 tablets of Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 215, when, in fact, the patient had died on April 7, 1999. Further, there was no physician's order for that medication.

Patient ID No. 216

q. On April 18, 1999, at 16:01 hours, Respondent withdrew 4 tablets of Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 216, when, in fact, the physician's order for the medication had been stopped or terminated as of April 1, 1999.

Patient ID No. 217

r. On April 24, 1999, at 15:27 hours, Respondent withdrew 4 tablets of Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 217, when, in fact, the patient had died on April 5, 1999. Further, there was no physician's order for that medication.

Patient ID No. 218

s. On April 24, 1999, at 15:28 hours, Respondent withdrew 4 tablets of Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 218, when, in fact, the patient had died on March 28, 1999. Further, there was no physician's order for that medication.

Patient ID No. 219

t. On April 24, 1999, at 15:27 hours, Respondent withdrew 4 tablets of Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 219, when, in fact, there was no physician's order for that medication.

1 **Patient ID No. 220**

2 u. On April 24, 1999, at 15:28 hours, Respondent withdrew 4 tablets of
3 Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 220,
4 when, in fact, the patient had been discharged from the hospital on April 1, 1999. Further, there
5 was no physician's order for that medication.

6 **Patient ID No. 221**

7 v. On October 16, 1998, at 16:16 hours, Respondent withdrew 2 tablets of
8 Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 221,
9 when, in fact, the patient had been discharged from the hospital on September 17, 1998. Further,
10 there was no physician's order for that medication.

11 **Patient ID No. 222**

12 w. On October 16, 1998, at 15:16 hours, Respondent withdrew 2 tablets of
13 Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 222,
14 when, in fact, there was no physician's order for that medication.

15 **Patient ID No. 223**

16 x. On October 16, 1998, at 18:07 hours, Respondent withdrew 2 tablets of
17 Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 223,
18 when, in fact, the patient had died on September 17, 1998. Further, there was no physician's
19 order for that medication.

20 **Patient ID No. 224**

21 y. On October 16, 1998, at 14:43 hours, Respondent withdrew 2 tablets of
22 Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 224,
23 when, in fact, there was no physician's order for that medication.

24 **SECOND CAUSE FOR DISCIPLINE**

25 (False Entries in Hospital, Patient or Other Records)

26 11. Respondent is subject to disciplinary action under Code section 2761(a) on
27 the grounds of unprofessional conduct, as defined by Code section 2762(e), in that while
28 employed and/or on duty as a registered nurse at Vencor Hospital, Westminster, California,

1 Respondent falsified, made grossly incorrect, grossly inconsistent, or unintelligible entries in
2 hospital and patient records in the following respects:

3 **Patient ID No. 211:**

4 a. On April 18, 1999, at 14:14 hours, Respondent withdrew 4 tablets of
5 Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 211,
6 but failed to chart the administration of the Vicodin ES in the medication administration record
7 or the patient's medical records and/or otherwise failed to account for the disposition of the 4
8 tablets of Vicodin ES.

9 **Patient ID No. 212:**

10 b. On April 18, 1999, at 14:13 hours, Respondent withdrew 4 tablets of
11 Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 212,
12 but failed to chart the administration of the Vicodin ES in the medication administration record
13 or the patient's medical records and/or otherwise failed to account for the disposition of the 4
14 tablets of Vicodin ES. Further, the physician's order for the medication had been stopped or
15 terminated as of April 9, 1999.

16 **Patient ID No. 216**

17 c. On April 18, 1999, at 16:01 hours, Respondent withdrew 4 tablets of
18 Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 216,
19 but failed to chart the administration of the Vicodin ES in the medication administration record
20 or the patient's medical records and/or otherwise failed to account for the disposition of the 4
21 tablets of Vicodin ES. Further, the physician's order for the medication had been stopped or
22 terminated as of April 1, 1999.

23 **Patient ID No. 219**

24 d. On April 24, 1999, at 15:27 hours, Respondent withdrew 4 tablets of
25 Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 219,
26 but failed to chart the administration of the Vicodin ES in the medication administration record
27 or the patient's medical records and/or otherwise failed to account for the disposition of the 4
28 tablets of Vicodin ES. Further, there was no physician's order for that medication.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Patient ID No. 222

e. On October 16, 1998, at 15:16 hours, Respondent withdrew 2 tablets of Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 222, but failed to chart the administration of the Vicodin ES in the medication administration record or the patient's medical records and/or otherwise failed to account for the disposition of the 2 tablets of Vicodin ES. Further, there was no physician's order for that medication.

Patient ID No. 224


f. On October 16, 1998, at 14:43 hours, Respondent withdrew 2 tablets of Vicodin ES, a controlled substance, from the hospital's SURE-MED system for Patient No. 224, but failed to chart the administration of the Vicodin ES in the medication administration record or the patient's medical records and/or otherwise failed to account for the disposition of the 2 tablets of Vicodin ES. Further, there was no physician's order for that medication.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 408697, issued to Gail M. Gonzalez, also known as Gail M. Zahn and Gail M. Johnson;
2. Ordering Gail M. Gonzalez, also known as Gail M. Zahn and Gail M. Johnson, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 6/17/02.


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant